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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,911	11/21/2003	Bryan M. Kelly	BLLYP001.US13	4013
68635	7590	03/16/2009	EXAMINER	
TIPS/BALLY			HSU, RYAN	
c/o Intellevate LLC			ART UNIT	
P.O. BOX 52050			PAPER NUMBER	
Minneapolis, MN 55402			3714	
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			03/16/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary	Application No. 10/719,911	Applicant(s) KELLY ET AL.	
	Examiner RYAN HSU	Art Unit 3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 November 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>2/24/09</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

In response to the amendments filed on 11/28/08, claims 1 and 9 have been amended and claim 13-14 have been newly added. Claims 1-14 are pending in the current application.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 13-14 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The specification of the instant application does not mention the game system of the player-machine to be “parallel-coupled” to the bonus apparatus. The description of “parallel-coupled” does not appear in the specification at any point. The subject matter is not apparent to be used or to enable one skilled in the art.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sitrick (4,572,509) and Lennon, Jr. (US 5,078,399) as applied to claims above, and further in view of Ishida (US 4,964,638).

Regarding claims 1 and 9, Sitrick teaches a game system comprising a plurality of physically separated player-machines wherein each physically player-machine includes its own microprocessor and software for allowing a player to play at least one game that requires sufficient skill such that it is not primarily a game of chance wherein the player is entitled to play at least one game and is adapted for developing digital information resulting from the play of at least one game (*see abstract, col. 9: ln 23-col. 10: ln 13*). Although Sitrick does not specifically teach a play of a game for an economic consideration this is a well known feature in arcade/skill type games. It would be obvious to one of ordinary skill in the art to incorporate an economic consideration for a game as it would obvious to one of ordinary skill in the art to require a user to pay before playing a game. Such a feature has been taught in related applications such as Lennon, Jr. which converts basic video games into a coin-operated video game (*see abstract*). However, Sitrick and Lennon are silent with respect to a bonus apparatus including a microprocessor and software, physically separated from the plurality of player-machines and coupled with the plurality of player-machines for digital communication therewith, wherein the digital communication includes game information and award information associated with at least one game.

In a related gaming patent, Ishida teaches a game system comprising: a plurality of physically separated player-machines, wherein each physically separated player-machine includes its own CPU and software for allowing a player to play at least one game that request

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sufficient skill wherein the player is entitled to play of at least one game due to an economic consideration and is adapted for developing digital information resulting from play of the at least one game (*see col. 5: ln 27-col. 6: ln 25*). Additionally, Ishida teaches a bonus apparatus including a CPU and software, physically separated from the plurality of player-machines and coupled with the plurality of player-machines for digital communication therewith, wherein the digital communication includes game information and award information associated with the at least one game (*see Fig. 1-5 and the related description thereof*). Although Ishida does not teach the progressive system used with a game that is "not primarily a game of chance" it teaches the state of the art in the gaming industry regarding gaming machines and the networking capabilities of the field before 1992. One would be motivated to incorporate a progressive bonus apparatus as it provides system with an attractive incentive to play a game. Incorporating a progressive into a game not a game a chance would still produce the expected result of attracting more customers at the time the invention was made. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teachings of Ishida with that of Sitrick to modify the skill game of Sitrick and Lennon with that of the progressive game of Ishida at the time the invention was made.

Regarding claims 2 and 10, Ishida teaches a system wherein the digital communication is over a network wherein the plurality of player-machines is coupled to the bonus apparatus (*see Fig. 1 and the related description thereof*).

Regarding claims 3-4 and 11-12, Ishida teaches a system wherein the network includes various options to allow for networked communication between the different devices. As taught by Ishida, pluralities of player-machines are connected through a serial communications system

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that pass and communicate using serial codes (*see col. 6: ln 50-col. 7: ln 5*). Therefore Ishida teaches a system wherein the network communication device inherently uses a common serial transmission protocol and thus it would encompass implementation of the standard protocol known as RS-232 (*see col. 6: ln 8-col. 7: ln 26*).

Regarding claim 5, Ishida teaches an bonus apparatus that provides awards based on one or more criteria, selected from a group consisted of: a game result; a progressive score; a completion of a specific task; an attainment of a specific goal; and a number of players playing (*see col. 3: ln 1-col. 4: ln 50*).

Regarding claim 6, Ishida teaches a game system wherein the progressive score is associated with a progressive bonus that is based on contributions made by a plurality of physically separated player-machines, and wherein the progressive score can be incremented or decremented based on a multiplier associated with the contributions (*see col. 4: ln 20-col. 5: ln 20*).

Regarding claim 7, Ishida teaches a game system wherein the contributions are based on one or more events comprising: consideration generated from at least one of the plurality of physically separated player-machines (*see col. 4: ln 35-col. 5: ln 27*); and attainment of at least one of the plurality of physically separated player-machines; and attainment of at least one pre-determined goal by at least one player playing at the plurality of physically separated player-machines (*see col. 5: ln 30-col. 6: ln 25*).

Regarding claims 13-14, Ishida teaches a game system wherein the each physically separated player-machine is parallel-coupled to the bonus apparatus (*see element 10(a-b) of Fig. 1 and the related description thereof*).

Response to Arguments

Applicant's arguments filed 11/28/08 have been fully considered but they are not persuasive. Applicant argues that Ishida is not applicable prior art because it is directed towards a game of skill. Examiner respectfully disagrees. The instant claims state that the invention is directed towards the networked progressive game. Progressive games incorporate a base game and a progressive game. The applicant's limitation of "not a game of skill" has been address by the incorporation of the Sitrick reference. Ishida has been incorporated as a teaching reference to provide knowledge of current state of progressive systems, networks, and capabilities of the gaming systems at the time the invention was made.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RYAN HSU whose telephone number is (571)272-7148. The examiner can normally be reached on 9 :00-17:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Hotaling can be reached on (571)272-4437. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John M Hotaling II/
Supervisory Patent Examiner, Art Unit 3714

RH
February 27, 2009